

ASHLAND ZONING ORDINANCE
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Article 1 Purpose and Authority

- 1.1 Purpose:
It is the intent of this Ordinance to promote the health, safety, and general welfare of the people of the Town of Ashland by establishing a set of regulations that will guide the community's growth so as to protect the value of homes and land, to promote good civic design and to insure the wise and efficient expenditure of public funds.
- 1.2 Authority:
Pursuant to the authority conferred by Chapter 674, Sections 16-23, New Hampshire RSA 1955, as amended, and in conformity with the Town of Ashland Comprehensive Master Plan, the voters of the Town of Ashland, New Hampshire, in official Town Meeting, enacted this Ordinance.
- 1.3 Title:
This Ordinance shall be known and cited as the "Zoning Ordinance of the Town of Ashland, NH."

Article 2 Zones and Zone Regulations

- 2.1 Zones:
The Town of Ashland is divided into the following zones:
- Commercial (c) – Zone I and Zone II
 - Industrial - Commercial (ic)
 - Village Residential (vr)
 - Rural Residential (rr)
 - Pemigewasset Overlay Districts
 - Little Squam Lake and Squam River Overlay District

These zones, as established, are shown on the Zoning Map of the Town of Ashland, which is hereby declared to be a part of this Ordinance. Where zone boundaries parallel highways, the distance shown on the Zoning Map from the zone boundary to the highway shall be measured from the edge of highway right-of-way.

When, in the application of this ordinance, the Ashland Zoning Board cannot unanimously agree in which district a property lies, the Ashland Planning Board shall decide in a manner consistent with the Ordinance and the Zoning Map, and written boundary guidelines.

- 2.2 Zone Regulations
- 2.2a Commercial: The purpose of this zone shall be primarily for retail and service type shopping facilities, offices, and banking facilities. The area shall provide access parking, adequate lighting, good design, and similar related items for convenience and safety. The following uses are permitted:
- Stores and shops for the conduct of any wholesale or retail business
 - Offices, banks, personal services, and medical facilities
 - Auto service stations and garages
 - Theaters, halls and clubs
 - Lodging facilities, hotels, motels and restaurants
 - Residential uses including apartments
 - Accessory uses
 - Personal storage units
 - Communication Towers

- 2.2b Industrial - Commercial: The purpose of this zone shall be to encourage the establishment of industrial and commercial uses that will not be noxious, offensive or detrimental to the environment, the town or the abutters. The following uses are permitted:
- Manufacturing, packing, processing and warehousing

- Railroad and trucking uses, offices and printing facilities
- Research and/or testing facilities
- Storage yards
- Accessory uses
- Stores and shops for the conduct of any wholesale or retail business
- Offices, banks, personal services and medical facilities
- Auto service stations and garages
- Theaters, halls and clubs
- Communication Towers

Personal residences are not allowed in the Industrial - Commercial Zone.

The following is a description of an area that is included in the Industrial - Commercial Zone: commencing at a point on the Union Bridge marking the town line between the Town of Bridgewater and the Town of Ashland; thence following the center line of US Route 3 in a generally easterly and southerly direction along Tax Map Parcel 005-001-013; thence continuing along the center line of US Route 3 along Tax Map Parcel 004-001-002 and 004-001-004; to the point of intersection with state of NH land; thence, southwesterly, southerly and westerly along Tax Map Parcel 004-001-002 to the easterly boundary of B&M RR; thence northerly along the easterly boundary of B&M RR to the centerline of the Pemigewasset River; which centerline marks the Bridgewater/Ashland Town Line; thence northeasterly along the centerline of the Pemigewasset River to the point of beginning.

Also to be included are certain parcels on the easterly side of Route 3 and North Ashland Road, specifically designated as Tax Map Parcels 005-002-001, 005-002-002, 005-002-003, 005-002-004 and 005-002-011 (Amended 3/13/93)(Route 3-also known as Main Street)

- 2.2c **Village Residential:** This zone provides for residential neighborhoods that are adjacent or close to commercial areas, schools and fire and police protections. Public water and sewer lines generally serve areas designated as "Village Residential". The following uses are permitted:
- Single and two-family dwellings
 - Multi-family dwellings
 - Home occupations that comply with the standards of 4.6 and the definition in Article 10
 - Accessory uses (garages and outbuildings)

- 2.2d **Rural Residential:** This zone provides for low to medium density rural living, open space and the protection of environmentally sensitive areas such as wetlands, floodplains, poor soils, and steep slopes. The following uses are permitted:
- Single and two-family dwellings
 - Multi-family dwellings with no more than 6 units per structure
 - Cluster residential development
 - A mobile home on an individual lot
 - Agricultural, forestry and farming uses
 - Home occupations that comply with the standards of 4.6 and the definition in Article 10
 - Accessory uses (garages and outbuildings)

- 2.2e **Pemigewasset Overlay District:** This district provides protection for the environmentally sensitive corridor along the Pemigewasset River and the restrictions contained herein take precedence over permitted uses in the portions of the zones over which it lies. The following uses are prohibited:
- Structures on slopes, which exceed fifteen percent (15%)
 - Mobile home parks
 - Any excavations for which an Earth Excavation Permit issued under RSA 155 E is required.

The eastern boundary of the district shall be 500 feet from the river's high-water line, except that it shall be 1000 feet from the high-water line in any floodplain. For the purpose of determining this boundary, the floodplains shall be considered those floodplain soil areas shown in the US Soil Conservation Service's Soil Survey for Ashland.

2.2f **Little Squam Lake and Squam River Overlay District:** This district provides protection for the environmentally sensitive corridor along the shores of Little Squam Lake and Squam River, and the restrictions herein take precedence over permitted uses in the portion of the Rural Residential Zone over which it lies. The following are prohibited:

- Structures on slopes, which exceed fifteen percent (15%)
- Application of fertilizers, pesticides or herbicides
- Underground fuel storage tanks
- Any excavations for which an Earth Excavation Permit issued under RSA 155 E is required.

This district extends 250 feet inland from the shoreline of Little Squam Lake, Squam River and upstream from the River Street Dam. For the purposes of determining boundaries, this district shall begin at the water's edge at a lake level of 561' as measured by the New Hampshire Water Resources Board's gauge at the Route 3 Bridge over Squam River in Holderness, NH.

2.3 Land and Space Requirements

2.3a There shall be a minimum distance of 35 feet between the edge of any public right-of-way and any building. No driveway shall be located within fifteen (15) feet of the side or rear boundary. **(Amended 3/11/2008)**

2.3b Setbacks for wells, septic tanks, leach fields and components comply with the New Hampshire Department of Environmental Services Code of Administrative Rules Chapter Env-Wq 1000. **(Amended March 11, 2008)**

2.3c Lot Size and Frontage; Building Setback and Coverage. Lots and buildings shall conform to the following standards:

Zone	Min Lot Size Sq Ft	Min Lot Frontage Sq Ft (b)	Min Blding Set Back (d) (ft)	Min. Building Set Back (d)(ft)	Min. Building Set Back (d) (ft)	Max % of Lot Covered Building	Min % Lot Allotted to Green Space
			Front	Rear	Side		
Commercial w/s&w	None	100(c)	35 (e)	15 (e)	15 (e)		10% (g)
Commercial w/o	40,000 (a)	100 (c)	35 (e)	15 (e)	15 (e)		10% (g)
Industrial	40,000 (a)	150	35	25	25		10% (g)
Village Res w/s&w	15,000	100	35	15	15	35%	10% (g)
Village Res w/o	40,000 (a)	100	35	15	15	35%	
Rural Residential	40,000 (a)	100	35	25	25	30%	
Pemigewasset Overlay	2 acres	150	(f)	(f)	(f)		
Little Squam Overlay	2 acres	150	(d)	(d)	(d)		

- (a) Or as determined by the Soils and Slopes Table in 2.4
- (b) A lot owned in common as a recreation area serving nearby dwelling units is exempt from the minimum lot frontage requirement
- (c) Minimum lot frontage may be reduced where lot sizes of less than 40,000 square feet are permitted.
- (d) The minimum structure setback from Little Squam Lake shall be 50 feet.
- (e) A commercial building need not be set back more than the average of the front setback of commercial buildings on the lots to either side. If a vacant lot exists on one side, the minimum front setback shall be required. The minimum side and rear setbacks may be reduced to conform with the side and rear setbacks of structures on adjoining properties at the discretion of the Zoning Board of Adjustment.
- (f) The minimum structure setback from the Pemigewasset River shall be 200 feet. In the Industrial - Commercial Zone, the structure setback from the Pemigewasset River may be reduced to 50 feet, through a special exception granted by the Zoning Board of Adjustment.

- (g) All lots with three or more residential units in the Commercial and Village Residential zones shall provide for recreation or playground purposes, in addition to the minimum percentage for green space, 500 square feet plus an additional 100 square feet for each residential unit over three.

2.3d Notwithstanding the requirements listed in 2.3c, back lots (so-called flag or hammerhead lots) are permitted with 50 feet of road frontage **or lots are provided access through a private right of way (Amended March 10, 2009)** under the following conditions:

- The back lot and adjacent front lot, each having frontage on the same street
- Must have a combined frontage required of two lots for the zones in which they are located. If two lots lie in different zones, the frontage requirements of the more restrictive zone shall apply to both.
- For the purpose of calculating frontage requirements, only one back lot may be combined with any one front lot.
- Access to the back lot must be via a **private right of way (Amended March 10, 2009)** at least 50 feet wide. That portion of the **private right of way shall (Amended March 10, 2009)** not be included in the lot size requirement of the back lot.

2.3e **Population Density:**

All lots with three or more dwelling units and/or mobile homes (except for mobile homes in mobile home parks): shall have the following minimum land area for each dwelling unit and mobile home:

- **Population density within the Commercial and Village Residential Zones having town sewer and water shall be as follows:**

- **5000 Sq Ft of land area per dwelling unit with maximum of 4 bedrooms**
- **3750 Sq Ft of land area per dwelling unit with maximum of 3 bedrooms**
- **2500 Sq Ft of land area per dwelling unit for 1 or 2 bedrooms**

The above formula applies only to the first 3 dwelling units. Each additional dwelling unit must provide 5000 Sq Ft of land area with a maximum of 4 bedrooms. An additional 1250 Sq Ft of land area shall be required for each additional bedroom above 4. (Amended March 10, 2009)

- Rural Residential Zone: 40,000 square feet per dwelling unit or mobile home
- Pemigewasset and Little Squam Overlay Districts: 60,000 square feet per dwelling unit or mobile home. (This requirement shall take precedence over the Rural Residential Zone requirement.)

2.4 **Lots**

Each lot shall meet all the standards for lot size, including:

- 2.3c District and Overlay District standards
- 2.3e Lots with three or more dwelling units and/or mobile homes
- 2.4a Lots without town sewerage
- 2.4c Cluster developments
- 4.1 Waterfront access lots
- 4.4 Mobile home parks
- 4.5 Recreational camping parks

- 2.4a The size of lots without town sewer shall be determined by the following Soils and Slopes Table and accompanying formulas. (See Appendix for Soil Breakdown)

Soil Type (Soil Chart-See Appendix)	Slope	Lot Size
Groups 1 and 2	0-8%	40,000 sq. ft.
	>8-15%	45,000 sq. ft.
	>15-25%	60,000 sq. ft.
Group 3	0-8%	50,000 sq. ft.
	>8-15%	75,000 sq. ft.
	>15-25%	100,000 sq. ft.
Group 4	0-8%	60,000 sq. ft.
	>8-15%	80,000 sq. ft.
	>15-25%	120,000 sq. ft.
Group 5 and 6	These soils cannot be included in determining minimum lot sizes, and septic systems are not permitted on them.	

- For a single-family residence of not more than four bedrooms, the minimum lot size shall be as listed in the Soils and Slopes Table.
- For each residential building of five to ten bedrooms, the minimum lot size shall be determined as follows:

$\frac{\text{Number of Bedrooms}}{4} \times \text{minimum lot size from Soils and Slopes Table}$

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- For each residential building of more than ten bedrooms, and commercial and industrial uses, the minimum lot size shall be determined by reference to the regulations of the New Hampshire Water Supply and Pollution Control Commission.
- Wetlands and areas with slopes over 25 percent may not be included in any part of the minimum size.
- In subdivisions with community water systems or municipal water supply (**amended March 11, 2008**) the minimum lot size may be decreased by 33 1/3 percent from the minimum lot size as determined from the Soils and Slopes Table. No such lot, however, shall have an area of less than 40,000 square feet.

2.4b In subdivisions where lots are ten acres or less, the depth of any lot shall be no more than four times its frontage.

2.4c The total land area in a cluster development shall equal the minimum lot size requirements established in 2.3c, times the number of lots and/or dwelling units.

2.4d (added March 10, 2009) Lot sizing for lots without town sewer shall not use the following in determining countable area for minimum lot size:

- Slopes greater than 25%
- Areas of exposed ledge
- Wet land areas
- Fill materials that contain tree stumps, sawdust, woodchips, tree bark, bricks, asphalt, concrete, metal, wall board, construction debris or other such non-soil material, or contain no more than 25% by volume of cobbles larger than six (6) inches in diameter or stone larger than twelve (12) inches in diameter
- Areas that are unsuitable for septic placement

ARTICLE 3 GENERAL PROVISIONS

3.1 Height restrictions

3.1a No building or structure shall be constructed with more than three stories not counting any basement below ground level or with an overall height exceeding 45 feet above mean ground level, except as noted in 3.1b and as permitted in Article 9.

3.1b Within the Pemigewasset Overlay and Little Squam Overlay District, no building or structure shall be constructed with an overall height exceeding 35 feet above mean ground level.

3.1c Height restrictions shall not apply to chimneys, church steeples, silos, or other necessary features appurtenant to buildings, which are usually carried above roofs and are not used for human occupancy. Height restrictions shall not apply to antennas, except such antennas fitting within the definition of Communication Towers, which shall be governed by the provisions of Article 9.

3.2 Off-street parking

Adequate off-street loading and parking shall be provided for:

- All newly constructed buildings
- New building additions
- Renovations increasing the number of units, seats, or anticipated patrons and employees
- Renovations changing the use of a unit

3.2a New construction of institutional, commercial, or industrial uses requiring off-street loading facilities shall provide adequate space so that vehicles receiving or delivering merchandise or materials can be loaded or unloaded outside of any public right-of-way.

3.2b All construction and renovation as described in 3.2 shall provide adequate off-street parking spaces equivalent to 200 square feet per space plus adequate additional area for maneuvering. The following standards shall be used:

- Residential use: two spaces for each family unit
- Hotel, motel and tourist accommodations: one space for each unit
- Commercial and industrial uses: one space for each three anticipated patrons and/or employees on the premises at any one time
- Public assembly (auditorium, church, hall, restaurant and theater): one space for every four seats

3.3 Signs

3.3.1 Permits

No sign or advertising device shall be erected in the Town of Ashland without a permit, except for signs required by federal, county, state or local law for safety purposes or for official Town of Ashland purposes.

3.3.2 Application and Fee Schedule

All applications for a sign permit shall be made to the Building Inspector and shall include a fee of \$ 40.00 (residential), \$60.00 (commercial), or \$ 85.00 (industrial), site location, sign size, number of signs, lettering, method of illuminations, if any, and types and colors of materials to be used in construction. Sign permits for residential use shall be issued and approved by the Building Inspector. All sign applications for non-residential use are subject to site plan review by the Planning Board prior to sign permit being issued by the Building Inspector. The Building Inspector may waive the fee for low impact, temporary signs promoting a civic or charitable activity or cause.

3.3.3 Sign Zones and Measurements

3.3.3.1 **Commercial Zone I:** The boundaries of this zone shall extend from the southern most boundary of the Commercial Zone, encompassing the current boundaries and running down to and including the property on Tax Map 004-002-027. No sign shall exceed 80 square feet nor be taller than 15 feet. No freestanding sign shall be smaller than 8 square feet.

3.3.3.2 **Commercial Zone II:** The boundaries of this zone shall extend

from the northern most boundary of the Commercial Zone, encompassing the current boundaries and running down to and including the property on Tax Map 004-002-026. No sign shall exceed 200 square feet nor be taller than 75 feet. No freestanding sign shall be smaller than 8 square feet.

- 3.3.3.3 **Industrial - Commercial Zone:** The same requirements as outlined in 3.3.3.1 shall apply.
- 3.3.3.4 **Village Residential Zone:** No residential sign may exceed 8 square feet. Any non-residential sign application shall be treated as outlined in 3.3.2.
- 3.3.3.5 **Rural Residential Zone:** No residential sign may exceed 12 square feet. Any non-residential sign application shall follow the application and site plan review procedures as set forth in 3.3.2.
- 3.3.4 **Number of Business Identification/Advertising Signs**
 - 3.3.4.1 A single business site shall be allowed three identification/advertising signs.
 - 3.3.4.2 A multi-business site shall be allowed two identification/advertising signs not to exceed 80 square feet each and one sign per business not to exceed 8 square feet per sign.
- 3.3.5 **Location**

No sign shall be placed in a position to endanger traffic by obstructing the line of sight. No sign shall be allowed that could be confused with a traffic sign. No sign shall be allowed that could be a safety hazard. The Planning Board has the discretion to prohibit animated signs.
- 3.3.6 **Temporary Signs**

A temporary sign may be erected subject to other sections of this ordinance as may apply. A temporary sign may not be larger than 32 square feet in size. The duration of a temporary sign permit shall not exceed 7 consecutive days, unless extended or renewed. Other seasonal or special occasion temporary signs for community events are up to the discretion of the Planning Board when dealing with size and duration.

 - 3.3.6.1 **Real Estate**

One (1) temporary non-illuminated sign advertising only the sale or lease of the premises thereon shall be permitted without a sign permit. Said sign shall not exceed 6 square feet in the Residential Zone and shall not exceed 32 square feet in other zones. Said signs shall be removed within 48 hours after the date of closing.
 - 3.3.6.2 The penalty for not removing said signs within the above-specified amount of time shall be \$10.00 per sign per day.
- 3.3.7 **Maintenance**

All surfaces and supporting structures of signs, whether erected prior to effective date of this ordinance or not, shall be maintained in a safe and sightly condition, to the satisfaction of the Selectmen or their authorized agent. Failure to correct a violation within 30 days after notice thereof shall constitute a violation of this ordinance, subject to prescribed remedies whereupon the designated Town Official may remove, or cause to have removed, said sign.
- 3.3.8 **Enforcement**

The owner of any illegal sign shall be notified in writing of said violation and be given 30 days to respond in writing to the Building Inspector with a plan to correct said violation. Failure to comply with the Building Inspector's notice will result in the violation being sent to the Board of Selectmen for enforcement and compliance.
- 3.4 **Obnoxious Use**

Any use that may be obnoxious or injurious by reason of production or emission of odor, dust, smoke, refuse matter, fumes, noise, vibration, or similar conditions, or that is dangerous to the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance, is prohibited.
- 3.5 **Junk Yards**

Junkyards are prohibited in the Town of Ashland.

3.5a Definitions

“Junkyard” or “automotive recycling yard” means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary fills. The word does not include any motor vehicle dealers registered with the Director of Motor Vehicles under RSA 261:104 and controlled under RSA 236:16. “Junkyard” also means any place of storage or deposit, whether in connection with a business or not, which has stored or deposited two or more motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material, which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two or more motor vehicles. Junkyard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material, which are parts of a motor vehicle or cut the parts thereof.

Violations

Upon discovery of a violation of section 3.5(a), the Town shall issue a written notice of violation to the violator requiring that the property come into compliance within 30 days of the date of the notice of violation. If the Town determines that the violation poses an immediate threat to public health or safety, the violator must bring the property into compliance immediately. If the property is not brought into compliance with Article 3.5(a) within 30 days from the date of notification, or within 3 days of the date of notice of violation where it has been determined that the violation poses an immediate threat to public health or safety, the violator will be subject to a civil penalty of up to \$275.00 for each day that the violation continues, plus the Town’s enforcement costs as authorized by NH RSA 676:17.

- 3.5b** Permanent storage facilities for hazardous waste are prohibited. Improper disposal of household hazardous waste is prohibited, except for authorized areas.

3.6 Keeping of Farm Animals

The keeping of farm animals (including cows, goats, horses, pigs and sheep) for commercial purposes within the Commercial, Industrial - Commercial and Village Residential zones shall be prohibited.

- 3.6a** The keeping of farm animals (chicken, rabbits, etc) for non-commercial purposes within the Commercial, Industrial-Commercial and Village Residential zones of less than 2 acres (87,120 square feet) is prohibited.

3.7 Erosion

If clay, sod, loam, sand, or gravel is removed within 100 feet of any public highway, street, or roadway, the area shall be inspected to assure that the premises will be protected against erosion and washouts within 90 days of the completion of construction or removal of material.

ARTICLE 4 SPECIAL PROVISIONS

4.1 Waterfront Access

This provision provides guidelines for the development of backland with access to Little Squam Lake and the Squam and Pemigewasset Rivers so as to prevent overcrowding and to protect water quality.

Rights to gain access to a water body through or by means of any land in the Town of Ashland shall not be created or attached to any real estate, except in accordance with the standards set forth below and subject to Planning Board approval. Any owner granting rights of use and access shall comply with the following standards:

- 4.1a The minimum area of any waterfront access lot shall be the greater of: a) one acre or b) 800 square feet per residential dwelling unit, individual recreational campsite, or individual lodging unit.
- 4.1b A waterfront access lot shall not have less than 200 linear feet of shore frontage for up to 10 residential dwelling units, individual campsites, or individual lodging units with granted rights of use or access.

Each additional such unit of campsite shall require an additional 20 linear feet of shore frontage.
- 4.1c A parking area of 300 square feet adjacent to the waterfront access lot shall be provided for each dwelling unit, recreational campsite, or individual lodging unit located in excess of 1000 feet from the waterfront property to which it has granted access. Parking shall be permitted only in the designated parking area.
- 4.1d One toilet facility shall be provided on the waterfront access lot for each 10 residential dwelling units, individual campsite or individual lodging unit, or fraction thereof.
- 4.2 The minimum shore frontage for a building lot located along Little Squam Lake or along the Squam and Pemigewasset Rivers shall be 200 feet.
- 4.3 **Mobile Homes**
 - 4.3a No mobile home shall be allowed within the Town of Ashland without a permit issued by the Building Inspector.
 - 4.3b Mobile homes placed or replaced within the Pemigewasset Overlay District must be installed upon a permanent foundation.
- 4.4 **Mobile Home Parks**
 - 4.4a No mobile home park shall be constructed on less than 10 acres of land. No mobile home park shall be permitted within the Pemigewasset and Squam Overlay Districts. In all other zones, mobile home parks shall be permitted only by Special Exception.
 - 4.4b A mobile home park not served by town sewerage and water shall conform to the regulations of the New Hampshire Water Supply and Pollution Control Commission.
 - 4.4c A separate, clearly defined site shall be provided for each mobile home. Each site shall have minimum area of 10,000 square feet in the Village Residential Zone, Commercial Zone and sewered portions, and a minimum area of 30,000 square feet in the Rural Residential Zone and unsewered portions of the Industrial-Commercial Zone.
 - 4.4d Each mobile home site shall be provided with off-street parking of 400 square feet.
 - 4.4e A usable area of no less than 1,000 square feet per mobile home site shall be set aside and maintained for joint use of all the occupants of the mobile home park.
 - 4.4f Within the minimum 10 acres, but in addition to requirements stated in 4.4c and 4.4e, a 35 foot buffer strip shall be maintained along all boundaries and public roads. Within this space a dense visual screen of suitable shrubs and trees 6 feet or more in height shall be provided. Such open space shall not be built upon, paved, nor used for parking.
 - 4.4g All roadways shall be constructed and maintained by the mobile home park owner in conformance with Ashland road standards, unless adequate provision has been made for on-going maintenance and repair.
- 4.5 **Recreational Camping Parks**

Within the Pemigewasset and Little Squam Overlay Districts, the following standards shall apply:

 - 4.5a The minimum area shall be 5 acres.
 - 4.5b A 35 foot landscaped buffer strip shall be maintained along all perimeters of the park, except that along the riverfront the buffer strip shall be 75 feet wide. Within this space, a dense visual screen of suitable shrubs and trees 6 feet or more in height shall be provided. Such open space shall not be built upon, paved, nor used for parking.
- 4.6 **Home Occupation**

Any use that is customarily conducted within a dwelling by the inhabitants thereof, which is secondary to the use of the dwelling for residential purposes. A home occupation shall not be

interpreted to include dining facilities, lodging or transient housing, convalescent homes, mortuary establishments, garbage and waste hauling services, animal hospitals or kennels, or similar uses.

- 4.6a A home occupation meeting the requirements listed below is permitted in any zone:
- 4.6a.1 Advertising shall be limited to business cards, flyers, and newspaper ads, which may refer to the location of the structure and type of occupation.
 - 4.6a.2 No signage other than a sign up to 12 inches high by up to 30 inches in length or up to 30 inches high and up to 12 inches in length, or any other configuration not to exceed 360 square inches. **(Amended March 13, 2007)**
 - 4.6a.3 Storage of goods is only allowed within the primary structure or accessory building.
 - 4.6a.4 Adequate off-street parking spaces are permitted for the home occupation as deemed necessary by the applicant.
 - 4.6a.5 The occupation shall not cause nuisance due to noise, radiation, radio interference, vibration, sound pressure, odors, dust, fumes, vapors, gases, smoke or glare.
 - 4.6a.6 Such use must be clearly secondary and incidental to the use of the premises for dwelling purposes.
 - 4.6a.7 No more than thirty-three percent (33%) of the gross floor area of the occupied dwelling unit shall be devoted to such a home occupation.
- 4.6b There shall be no outside parking of vehicles defined in NH RSA 259:7, 259:11a, 259.59, 259:98 and 259:109 as Bus, Combination Vehicle, Motor Truck, Semi-trailer, Tractor-trailer, and Truck-tractor.
- 4.6c Any Home Occupation not meeting the requirements of 4.6a.1 through 4.6a7, and 4.6b may be permitted by Special Exception. Applicants for a Special Exception must meet the requirements of Sections 6.3.1 through 6.3.2c of the Zoning Ordinance.

4.7 **Bed and Breakfast**

Bed and Breakfasts are allowed in all zones subject to site plan review and the following conditions:

- ★ Maximum number of accommodations units shall be determined by the more restrictive of:

Subtracting 750 from the total square footage of the building and dividing the result by 400

OR

The total square footage of the lot divided by 1800.

- ★ Establishment is not primarily a restaurant, although establishment may serve breakfast and snacks to its guests.

- ★ All Bed and Breakfasts shall be required to have all local and state permits, and a permit to operate issued by the Building Inspector before operation begins. Approval alone by the Planning Board does not constitute permission to operate.

Signage: Main sign shall be no larger than 8 square feet and may be double sided, posts not included. There shall be no neon or flashing signage.

Nameplate sign of 100 square inches to be mounted on building.

Exit and Entrance signs to be determined by applicant and reviewed by Planning Board.

Parking signs to be determined by applicant and reviewed by Planning Board.

- Parking: Minimum off-street parking to include (2) spaces for the owner/innkeeper and (1) space for each unit, (200 square feet minimum per space)
- Lighting: All lighting shall be installed so as not to disturb the neighbors or the residential nature of the area.

The Bed and Breakfast shall not cause nuisance due to radiation, radio interference, vibration, sound pressure, odors, dust, fumes, vapors, gases, smoke, traffic or glare.

4.8 **Yard, Garage, Barn Sales and Auctions**

Yard, Garage, Barn Sales and Auctions are permitted in all districts without permit, but only after notification to the Town Office. No such sale or auction may run for more than 4 consecutive days.

Signage: There are no sign permits required for yard, garage, barn sales and auctions, however, all signs must be removed within 24 hours of ending the sale. All signs must contain name, address, and telephone number of the sale's host, as well as the date(s) of the sale.

Signs are not permitted on utility poles, or within the public right-of-way. Failure to comply may result in a fine being levied of not more than \$275 a day from date of ordinance violation (RSA 676:17)

4.9 **Flood Hazard Areas:**

This ordinance, adopted pursuant to the authority of RSA 674:16 shall be known as the Town of Ashland Floodplain Development Ordinance. The regulations in this Ordinance shall overlay and supplement the regulations in the Town of Ashland Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling. The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Rate Maps dated April 2, 1986, which are declared to be a part of this ordinance and are hereby incorporated by reference.

4.9.1 Definition of Terms

The following definitions shall apply to this Floodplain Development Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Ashland.

- Area of Special Flood Hazard is the land in the floodplain within the Town of Ashland subject to a one (1) percent or greater chance of flooding in any given year. The area is designated as Zone(s) A and AE on the Flood Insurance Rate Map. (**Amended March 13, 2007**)
- Base Flood means the flood having a one-percent possibility of being equaled or exceeded in any given year.
- Basement means any area of a building having its floor sub grade on all sides.
- Building – see Structure
- Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling grading, paving, excavation or drilling operation or storage of equipment or materials. (**Amended March 13, 2007**)
- FEMA means the Federal Emergency Management Agency.

- Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - The overflow of inland or tidal waters.
 - The unusual and rapid accumulation or runoff of surface waters from any source.
- Flood Insurance Rate Map (FIRM) means an official map incorporated with this ordinance, on which FEMA has delineated both the special food hazard areas and the risk premium zones applicable to the Town of Ashland.
- Floodplain or Flood-prone area means any land area susceptible to being inundated by water from any source (see definition of Flooding)
- Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
- Floodway – see Regulatory Floodway
- Functionally dependent use means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
- Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- Historical Structure means any structure that is:
 - A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either;
 - a. By an approved State program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.
- Lowest Floor means the lowest floor of the lowest enclosed area (including the basement). An unfinished or flood resistant enclosure, usable solely for parking vehicles, building access or storage in an area other than a basement area is not considered a buildings lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home includes park trailers or travel trailers, and other similar vehicles places on site for greater than 180 days. This includes manufactured homes located in a manufactured home park or subdivision. (**Amended March 13, 2007**)
- Mean sea level means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

- 100-year Flood – see base flood
- Recreational Vehicle is defined as:
 - Built on a single chassis;
 - 400 square feet or less when measured at the largest horizontal projection;
 - Designed to be self-propelled or permanently towable by a light duty truck; and
 - Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. **(Amended March 13, 2007)**
- (See-Area of Special Flood Hazard) **(Amended March 13, 2007)**
- Structure means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- Start of Construction includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvements was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site such as pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.
- Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.
- Substantial Improvement means any condition of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds 50% of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term includes structures, which incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a historic structure, provided that the alteration will not preclude the structures continued designation as a historic structure.
- Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.
- Flood Insurance Study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards. **(added March 13, 2007)**

- Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. **(added March 13, 2007)**
- New Construction means for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. **(Added March 13, 2007)**
- Violation means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR§ 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided. **(Added March 13, 2007)**

4.9.2 All proposed development in any special flood hazard areas shall require a permit.

4.9.3 The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- A. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. be constructed with materials resistant to flood damage;
- C. be constructed by methods and practices that minimize flood damages; and
- D. be constructed with electrical, heating, ventilations, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4.9.4 Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

4.9.5 For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Building Inspector:

- A. the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement;
- B. if the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed; and
- C. any certification of flood proofing.

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

4.9.6 The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334

4.9.7

- A. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector and the Conservation Commission, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau and notice of Conservation Commission meetings. **(Amended March 13, 2007)**
- B. The applicant shall submit to the Building Inspector and the Conservation Commission, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- C. The Building Inspector shall obtain, review and reasonably utilize any floodway data available from federal, state or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.

- D. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other developments are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. **(Added March 13, 2007)**
- E. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. **(Added March 13, 2007)**

4.9.8

- A. In special flood hazard areas the Building Inspector shall determine the 100-year flood elevation in the following order of precedence according to the data available:
 - a. In Zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
 - b. In Zone A, the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals) **(Amended March 13, 2007)**
- B. The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in Zone A and AE that:
 - 1, all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation.
 - 2. that all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
 - i. be flood proofed so that below the 100-year flood elevation that structure is water tight with walls substantially impermeable to the passage of water;
 - ii. have structural components capable of resisting, hydrostatic and hydrodynamic loads and the effect of buoyancy; and

- iii. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
- C. All manufactured homes to be placed or substantially improved within special flood hazard area shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100-year flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- D. All recreational vehicles placed on sites within Zones A and AE shall either:
 - 1. be on site for fewer than 180 consecutive days;
 - 2. be fully licensed and ready for highway use, or
 - 3. meet all standards of section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for manufactured homes in Paragraph (c)(6) of Section 60:3. **(Amended March 13, 2007)**
- E. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
 - 1. the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - 2. the area is not a basement
 - 3. shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Opening may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

4.9.9 Variance and Appeals

- A. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- B. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33,I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
 - 1. that the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense.
 - 2. that if the requested variance is for activity within a designate regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - 3. that the variance is the minimum necessary, considering the flood hazards, to afford relief.
- C. The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

- D. The community shall (i) maintain a record of all variance actions, including their justifications for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE 5 NON-CONFORMING USES

- 5.1 All non-conforming properties in active use when this Ordinance is adopted may continue in their present use.
- 5.2 If a use is discontinued or abandoned for one year, it shall thereafter conform to the regulations for the zone, and the non-conforming use may not thereafter be resumed without approval of the Zoning Board of Adjustment.
- 5.3 Any and all non-conforming property may be altered and expanded as the business conditions warrant, provided, however, that any such expansion does not make any existing non-conforming structure, more non-conforming within the terms of this Ordinance and provided that all other standards of the Ordinance are met.
- 5.4 Non-conforming buildings, which are destroyed by fire or other natural disaster, may be rebuilt or replace if the degree of non-conformity is not increased.

ARTICLE 6 BOARD OF ADJUSTMENT

6.1 **Creation, Appointment and Jurisdiction**

Within thirty days after the adoption of this Ordinance, and thereafter as terms or vacancies occur, the Board of Selectmen shall appoint a Zoning Board of Adjustment consisting of five members whose duties, terms and powers shall conform to the provisions of Chapters 673,674,676 and 677 RSA 1955, as amended. The Zoning Board of Adjustment may also include not more than three alternate members appointed by the Board of Selectmen. No person may be appointed to more than three consecutive terms as a member of the Zoning Board of Adjustment.

6.2 **Appeals**

- 6.2a Appeals to the Zoning Board of Adjustment may be taken by any aggrieved person or by any officer, department, board or bureau of the Town of Ashland affected by any decision of the administrative officer in the manner prescribed by RSA 674:34 and 675:5-7 within the time limit set by the Zoning Board of Adjustment according to said statute.
- 6.2b Prior to a hearing, the costs of advertising, posting and mailing the notices of the hearing shall be paid by the person making the appeal.

6.3.1 **Special Exception**

At the discretion of the Zoning Board, any use not permitted in a specific article may be allowed as a Special Exception, provided that:

- The specific site is an appropriate location for the intended use or structure
- The use will be compatible with neighboring land uses
- The property values in the zone and in the surrounding area will not be reduced by such a use.
- There will be no nuisance or serious hazard to vehicles or pedestrians.
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- The proposed use will comply with the minimum lots sizes, frontage and setback requirements set forth in 2.3.
- Existing road and highways are capable of carrying the additional traffic.

The Board may impose additional standards in granting a special exception where deemed necessary to protect the best interests of the surrounding property, the neighborhood, or the town as a whole. These standards may include, but are not necessarily limited to the following:

- Increasing the required lot size or setback in order to protect the adjacent properties
- Limiting the lot coverage or height of buildings
- Controlling the location and number of vehicular access points to the property.
- Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character with the surrounding area
- Provide for specific layout of facilities on the property such as the locations of buildings, parking spaces, and access to the building so as to minimize the effect on adjoining property.
- Requiring the lot to be of sufficient size to support an adequate subsurface sewage disposal system in the case of conversions of existing structures to more intensive use.
- Requiring professional inspection of, and improvements to, an existing subsurface sewage disposal system.

6.3.2 Procedure for Special Exception

A special exception use will require an application and a site plan submitted to the Zoning Board of Adjustment. A special exception may be granted only after a public hearing is held.

6.3.2a The site plan for a proposed development, which necessitates a special exception, shall contain, where applicable:

- The lot dimensions and any bounding streets with their right-of-way and pavement widths
- The locations and dimensions of existing or required service areas, buffer zones, landscaped areas, recreational areas, signs, right-of-way, streams, drainage and easements
- All existing and proposed buildings, additions or other structures with their dimensions
- All setback dimensions (front, rear, side) and building heights
- Computed lot and building areas with percentages of lot occupancy
- Elevations or contours if required or relevant
- The location and number of parking spaces and traffic lanes with their dimensions
- Any required loading, unloading, and trash storage areas

6.3.2b All abutters of any proposed use not permitted under Article 2 shall be notified by the Zoning Board of Adjustment by certified mail return receipt requested, not less than 15 days before the date of any public hearing regarding said site. The names and addresses of the abutters shall be supplied by the applicant on a plot plan to be submitted to the Zoning Board of Adjustment.

6.3.2c The applicant shall pay the total costs of advertising and posting any hearings and the cost of certified mailings, and any necessary site inspection fees.

6.4 Variances

6.4a Variances may be granted only after a public hearing held in accordance with NH RSA 676:7. All abutters of the property in question shall be notified by certified mail, return receipt requested, not less than 15 days before the date of any public hearing regarding the requested variance. The applicant for the variance shall pay the cost of abutter notices, advertising and posting the hearing.

6.4b The Zoning Board of Adjustment may, on an appeal, grant a variance from the provisions of this Ordinance only where the Board finds that all of the following conditions apply:

1. No diminution in value of surrounding properties would be suffered.
2. Granting the permit would be of benefit to the public interest

3. Denial of the permit would result in unnecessary hardship to the owner seeking it (it is not enough that the application of the ordinance may cause the landowner to suffer some financial loss. *Hanson v. Manning* 115 NH 366)
4. By granting the permit substantial justice would be done
5. The use must not be contrary to the spirit of the ordinance. *Gelinas v Portsmouth* 97 NH 248, 1952

6.4c **Rehearings**

The Selectmen and any party subject to an order or a decision of the Zoning Board of Adjustment, and any party directly affected by such an order or decision may apply for a rehearing. The application for a rehearing shall be treated according to NH RSA 677.

ARTICLE 7 ADMINISTRATION AND ENFORCEMENT

7.1 **Issuing Permits**

The Building Inspector shall issue all building permits required in accordance with the Town of Ashland Building Regulations. No permit shall be issued for the erection of any structure or for the use of land unless the proposal complies with the provisions of this Ordinance.

7.2 **Enforcement**

- 7.2a Upon receiving any credible information that this Ordinance is being violated, and upon an affirmative vote that a violation more probably is being committed, the Selectmen are hereby authorized to enforce the provisions of this Ordinance by application for appropriate relief in the Superior Court, or by taking any other legal action.
- 7.2b Any violation of any provision of this Ordinance by any person, firm, corporation, or other legal entity, whether the owner of the property or whether acting under authority of such owner, shall be a violation pursuant to the Criminal Code of New Hampshire for each day of such offense. In addition, after conviction, the additional penalties provided for by RSA 676:17 may apply.

ARTICLE 8 MISCELLANEOUS PROVISIONS

8.1 **Saving Clause**

The invalidity of any provision of this Ordinance shall not affect the validity of any other provisions.

8.2 **Effective Date**

This Ordinance shall take effect immediately upon its adoption.

8.3 **Amendments**

This Ordinance may be amended by majority vote of any Town Meeting, in accordance with the provisions of RSA 675 as amended.

8.4 **Validity**

Whenever the provisions of this Ordinance or rulings made under the authority herewith differ from those of other ordinances or regulations of the Town, the provision or ruling which imposes the greater restriction or the higher standard shall govern.

ARTICLE 9 COMMUNICATION DEVICES

9.1 **Statement of Purpose behind the Zoning Ordinance**

It is the purpose of these provisions to regulate the placement, maintenance and eventual removal of Communication Devices and Towers to preserve and protect the public safety and welfare, including community aesthetics. All Communication Devices and Towers shall comply with the criteria set out in Article 9 of this Ordinance, as well as with any additional criteria imposed by the

Planning Board as part of its authority to approve or disapprove a site plan for any such Communication Device or Tower.

9.2 **Statement of Substantive Requirements for Communication Devices**

a. Requirements for Communication Towers

- (1) Proof of landowner's good title and support of the application.
- (2) Site Requirements

(I) **Minimum Setbacks:** A Communication Tower must be set back from the boundary of the property and any structure by a distance no less than one hundred ten percent (110%) of the height of the tower.

(II) **Effect of Communication Tower on Scenic Views:** No Communication Tower shall be permitted in the Little Squam Overlay District or the Pemigewasset Overlay District.

The Applicant must demonstrate that every reasonable effort has been made to cause the Communication Tower to have the least possible visual impact on the town at large, including demonstration of realistic analysis of multiple sites within the town and outside the town, the need for the proposed height and landscaping and other measures. The applicant must demonstrate that existing or approved structures, including other Communication Towers in the region, are functionally unsuitable to handle the need for the Communication Devices, which will be located on the Communication Tower.

(III) **Other Impacts of the Communication Tower on Other Properties:**

Except as specified in this subparagraph c, the Applicant must demonstrate that no offensive noise, bright lights or odors shall be transmitted outside the property boundaries. Any lights, whether required by any regulatory agency or otherwise, shall be installed in such a way as to minimize the impact on adjoining properties.

(IV) **Maintenance Roads and Outbuildings:** The Communication Tower must be accessible to emergency vehicles throughout the year. The Applicant must demonstrate that any proposed maintenance and access roads meet the specifications of the Planning Board at the time of application. Any outbuildings must meet the requirements of the Town of Ashland Building Regulations.

(3) Construction Requirements

(I) **Structural Requirements**

- The Applicant must demonstrate that the Communication Tower and any attachments to the Communication Tower, including Communication Devices, can withstand winds of at least 130 miles per hour.
- The Applicant must demonstrate that the Communication Tower and any attachments to the Communication Tower, including Communication Devices meet all federal and state regulatory standards.
- The Applicant must demonstrate that the Communication Tower and any attachments to the Communication Tower, including Communication Devices meet all commonly accepted engineering standards.

(II) **Requirement to Accommodate Multiple Providers:** The applicant must demonstrate that every reasonable effort has been made to design

the Communication Tower to accommodate multiple providers of communication services and must agree to make the Communication Tower available upon reasonable terms by lease or other legal instrument to other communication services to the extent of the Communication Tower's design.

(4) Maintenance Requirements

The Applicant must present its plan to maintain the Communication Tower in accordance with this ordinance, all state and federal regulatory standards and commonly accepted engineering standards. This plan must cover maintenance roads, outbuildings and periodic physical ("shakedown") inspections.

(5) Removal Requirements

- (I) The Applicant must provide a draft-dismantling plan, acceptable to the Planning Board, which will describe demolishing the Communication Tower and restoring the site.
- (II) Assurances of funding to remove the wireless towers must be provided. The Applicant must provide a bond or other security acceptable to the Planning Board in an amount sufficient to cover the costs of executing the draft-dismantling plan. The amount of funding required shall take into consideration the expected useful life of the Communication Tower.

(6) Any other requirements or conditions imposed by the Ashland Planning Board.

- (I) Requirements for Placement of Other Wireless Communication Devices. This section is intentionally left blank.

9.3 Exemptions

This ordinance shall not govern any tower, or the installation of any antenna that is 35 feet in height or less and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receiving only antennas. [This application adopts the provisions and limitations as referenced in RSA 674:16,IV.]

9.4 Procedural Requirements for Communication Devices

This ordinance shall be administered by the Ashland Planning Board. Enforcement shall be by the Board of Selectmen. Before a building permit may be issued for a Communication Device or Tower, the applicant must have received final site plan approval from the Planning Board, which shall include compliance with the provisions of this Ordinance.

- a. **Procedural Requirements for obtaining approval to install a wireless communication device. The Town of Ashland Planning Board shall make all approvals of Communication Devices.**
 - I. **Rights of Abutting Towns:** Because the visual impact of wireless communication facilities can transcend town lines; the Town of Ashland shall formally notify all towns that may reasonably be visually affected of applications for such proposed Communication Towers. The applicant shall be responsible for the cost of this notice.
- b. **Procedural Requirements for Approval for Modifying a Communication Device/Tower:**
 - I. Any alteration of the original permitted use, structure or configuration of the Communication Device/Tower will require a new approval by the Planning Board.

- II. Additional prospective users of an existing Communication Tower must obtain approval for their device to be added to the Communication Tower and bear the burden of showing that the Communication Tower shall continue to comply with all requirements with the addition of this user.
 - III. Any alteration of a Communication Device/Tower shall be subject to the approval of the Planning Board. Alteration of the Communication Device/Tower includes adapting or adding another Communication Device to the existing Communication Tower or a change in ownership of the Communication Tower.
- c. **Authority for Planning Board to Hire Experts at Applicant's Expense**
As part of any approval or modification, the Ashland Planning Board may inspect the site and may elect to hire experts to verify that the application satisfies the provisions of this Article 9. These inspections shall be reasonable in frequency and the Board shall request the results in writing. Copies of such reports will be made available to other regulatory agencies. The costs for any such experts shall be borne by the Applicant.
- d. **Procedural Requirements for Obtaining Approval of a Dismantling Plan**
Prior to the start of any dismantling, the Applicant shall seek final approval of the dismantling plan from the Planning Board. The final dismantling plan shall include all provisions required by Section 9.2(a)(4)(A), shall specify a starting date and ending date for the dismantling, the safety measures to be employed and shall satisfy any additional concerns raised by the Planning Board.
- e. **Application Fee**
The Planning Board shall establish an application fee for a Communication Device or Tower from time to time, based on a reasonable estimate of its cost to process the application for site plan review.
- f. **Waiver**
The Planning Board may choose to waive one or more provisions of this Article 9, if, in the context of a particular application they serve no valid purpose, or where a waiver would create a benefit in terms of the purpose, as described in Section 9.1.
- g. **Removal of Abandoned Communication Towers**
Any Communication Tower that is declared abandoned shall be considered hazardous to the public health and safety. Within ninety (90) days of receipt of a declaration of abandonment from the Planning Board, the owner shall remove the abandoned structure and restore the site according to the dismantling plan approved by the Board. A declaration of abandonment shall only be issued following a public hearing, noticed according to NH RSA § 676:4, with notice to abutters and the last known owner and/or operator of the Communication Tower. Evidence of abandonment shall include, but not be limited to the owner's failure to satisfy maintenance requirements, the owner's failure to provide periodic proof of current use as requested by the Board, and the owner's failure to comply with the agreement with the landowner. If the abandoned Communication Tower is not removed 90 days following the declaration, the Town may execute the security, and have the Communication Tower removed. If there are two or more users of a Communication Tower, this provision shall not become effective until all users cease using the Communication Tower.

ARTICLE 10 DEFINITIONS

10.1 For the purpose of this Ordinance, the following terms are defined:

Abutter	Any person whose property adjoins or is directly across the street or stream from the land under consideration. For the purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.
Accessory Building	A subordinate building incidental to and on the same lot occupied by the main buildings or use. The term “accessory building”, when used in connection with a farm, shall include all buildings customarily used for farm purposes.
Animated Sign	Any sign with moving parts and/or flashing lights.
Applicant	Any person or group of people.
Bed and Breakfast	Bed and Breakfast, referred to as B&B, is a business providing sleeping accommodations and a breakfast prior to check out time, for its overnight guests.
Building	Any structure having a roof and intended for the shelter, housing, or enclosure of persons, animals, or property.
Cluster Development	A pattern of subdivision development, which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.
Communication Device	Any structure or other apparatus used to receive and/or transmit wireless communications, which shall include personal wireless service facilities within the meaning of <i>The Telecommunications Act of 1996, 47 U.S.C. § 151</i> et seq., as the same may be amended from time to time.
Communication Tower	Any tower or other structure that is greater than 35 feet in height and is designed, constructed or used primarily to support one or more Communication Devices.
Community Water System	As defined in RSA 485:1-a (Amended March 11, 2008)
Dwelling, Single-Family	A detached residential building other than a mobile home, designed for and occupied by one family only.
Dwelling, Multi-Family	A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided or permitted.
Dwelling Unit	One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental, or lease, physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sanitary and sleeping facilities. It shall include sectional homes and modular units, provided these units meet the standards of the local building code: but it shall not include mobile homes, motels, hotels, lodging houses, or similar structures.

Green Space	Land not covered by impervious cover, which is capable of growing grass, plants, shrubs, trees, or similar ground cover. Such land, which does not have any of the above listed landscaping, shall be developed and maintained with these landscaping features. The use of wood chips shall be limited to beneath trees or shrubs, or to areas where the maintenance of grass would be prohibitive.
Height	The height above ground level from the natural grade of a site to the highest point of a structure.
Home Occupation	Any use that is customarily conducted within a dwelling by the inhabitants thereof which is secondary to the use of the dwelling for residential purposes and does not change the character of the building or the character of the neighborhood.
Junk Yard	Any lot used for the purpose of storing or reclamation of automobiles, their parts, unwanted appliances, scrap metal, and other material.
Lot	A parcel of land of sufficient size to meet minimum zoning requirements for use, building coverage, setback, and area.
Lot Frontage	Lot width measured at the street. When a lot faces more than one street, it must have the minimum width on each street.
Manufacturer Housing/ Mobile Home	A detached, complete, and transportable structure (with plumbing, heating, and electrical systems contained therein) built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation. Sectional homes, modular homes, and prefabricated homes are excepted and do not apply.
Mobile Home Park	A lot with three or more mobile homes.
Municipal Water Supply	Potable water supplied by town or municipality (Amended March 11, 2008)
Non-conforming	A structure, use or lot that does not conform to the structure, use or lot regulations of the zone in which it is carried on or located.
Parking Space	An off-street space available for the parking of one motor vehicle.
Shore Frontage	The measured distance along the natural shoreline at high water.
Special Exception	Use of land or buildings that is permitted, subject to specific conditions that are set forth in this Ordinance.
Structure	Anything constructed or erected, the use of which requires location on the ground or attachment. Something having location on the ground. It shall not include a minor installation, such as a fence less than 6 feet high, a mailbox, or a flagpole.

Any building occupied or unoccupied, but shall not, for purposes of §9.2(a)(2)(A) include a building used exclusively to house the Communication Tower control apparatus.

Public Street A public right-of-way which the town or state has the duty to maintain regularly, or a right-of-way shown on a subdivision plat approved by the Planning Board, recorded with the county Register of Deeds, and providing the principal means of access to abutting property.

Variance Waiver or relation of particular requirements of an ordinance when strict enforcement would cause undue hardship because of circumstances unique to the property.

Waterfront Access Lot A waterfront lot with right of use granted to owners or users of other lots, dwelling units, campsites, or lodging units.

Adopted: March 12, 1985

Amended: March 11, 1986 March 13, 1993 March 14, 2000 March 9, 2004
 November 4, 1986 June 12, 1993 March 11, 2003 March 8, 2005
 March 10, 1987 March 8, 1994 March 13, 1990 March 13, 2007
 March 8, 1988 March 12, 1996 March 10, 1998 March 11, 2008
 March 10, 2009

Group 1	Group 2	Group 3		Group 4	Group 5	Group 6
Excessively drained and somewhat excessively drained soils with rapidly or very rapidly permeable receiving layer	Well-drained soils with moderately permeable surface and subsoil layers and having a moderate to rapidly permeable receiving layer	Somewhat poorly drained or moderately well drained soils, and well drained soils with a slowly or very slowly permeable receiving layer		Soils with bedrock with 4 feet of the soil surface.	Poorly drained soils	Very poorly drained soils
Adams Boscawen Ceasar Champlain Colton	Abenaki Agawam Allagash Bangor Berkshire	Acton Acton Variant Becket Belgrade Barnardston Variant	Melrose Metacomet Metallak Millis Montauk	Canaan Cardigan Chatfield Elliotsville Glebe	Au Gres Bemis Binghamville Brayton Cabot	Biddeford Borohemists Bucksport Burnham Chocorua
Gloucester Glover Hermon Hinckley	Bice Canton Charlton Dutchess	Boxford Buckland Buxton Canterbury	Mundal Newfields Nicholville Nicholville Variant	Hogback Hollis Kearsarge Lyman	Charles Cohas Grange Kinsman	Greenwood Ipswich Matunick Maybid
Hoosic	Fryeburg	Chatfield	Ninigret	Macomber	Leicester	Medomak Variant
Masardis	Groveton	Chesuncook	Paxton	Millsite	Leicester Variant	Muck
Merrimac Success Suncook	Hadley Hartland Haven	Colonel Colonel Variant Croghan	Peru Pittstown Pittstown Variant	Monson Pennichuck Rawsonville	Lim Limerick Limerick Variant	Ossipee Pawcatuck Peacham
Sunday Redstone	Houghtville Lombard	Dartmouth Deerfield	Plaisted Plaisted Variant	Ricker Saddleback	Lyme Monarda	Peat Pondicherry
Warwick Windsor	Monadnock Occum	Dixmont Duane	Podunk Podunk Variant	Shapleigh Stratton	Moosilauke Naumberg	Saco Saco Variant
Windsor Variant	Ondawa	Eldridge	Poocham	Thorndike	Pemi	Scarboro
	Salmon Salmon Variant	Elmwood Finch	Potaluck Roundabout	Tunbridge Winnecook	Pillsbury Pillsbury Variant	Searsport Vassalboro
	Stetson Unidilla	Henniker Hitchcock Howland	Scio Shaker Sheepscot	Woodstock	Pipestone Raynham Raynham Variant	Waskish Westbrook Whitman
		Lanesboro Machais Madawaska Marlow	Sisk Skerry Sudbury Suffield Sunapee Sutton		Raypole Ridgebury Pippowam Roundabout Rumney Rumney Variant	Wonsqueak
					Saugatuck Scantic Scitico Shaker Squamscott Stissing Swanton Walpole Warham	

Pursuant to RSA 674:57, by resolution of the Town of Ashland Board of Selectmen, all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Grafton, NH" dated February 20, 2008, together with the associated Flood Insurance Rate Maps dated February 20, 2008, are declared to be part of the Town of Ashland Zoning Ordinance and hereby incorporated by reference.